IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 308 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?Yes

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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M/S. KARAN TRADERS & 1 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MS BANNA S DUTTA for Applicant(s) : 1 - 2.
Mr.U.R.Bhatt, A.P.P.. for Respondent(s) : 1,
MR TV SHAH for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 08/05/2007

ORAL JUDGMENT

1. Rule. Learned A.P.P. Mr. U.R.Bhatt waives service of rule on behalf of the respondent-State while Mr. T./V.Shah waives service of rule on behalf of the

respondent no.2.

2. This application under Section 482 of the Code of Criminal Procedure is preferred by the applicants nos.1 and 2 with a prayer to quash the proceedings in Criminal Complaint bearing no.4019 of 2006 filed before the Metropolitan Magistrate Court no.22, Ahmedabad.

3. The respondent no.2 lodged complaint against the present petitioner before the Metropolitan Magistrate, Court no.13, Ahmedabad under Section 138 read with Sec.141 and 142 of the Negotiable Instruments Act, 1881 in March, 2006. Before filing the said complaint, notice was issued to the present petitioner, but the notice was neither complied with nor any reply thereto has been filed by the present petitioner.

4. While arguing this application on the sole point of territorial jurisdiction, it is submitted by the learned Advocate Ms. Banna Dutta that the respondent no.2 has also lodged complaint bearing M.P. no.7 of 2006 on 21-12-2005 in the Court of the learned Judicial Magistrate, Coimbatore for the offence punishable under Sections 403, 406, 420 and 120(B) of IPC, which is still pending. It is submitted by the learned Advocate for the petitioner that territorial jurisdiction lies with the Court at Chennai and not with the Court at Ahmedabad as the present petitioner received funds from the respondent no.2 at

Coimbatore while the registered office of the present respondent no.2 is situated at Baroda.

5. It is an admitted fact that cheque was placed for encashment in ICICI Bank, Ahmedabad Branch, which was returned with the endorsement " insufficient funds" along with the return memo by the Ahmedabad Branch. This clearly shows that under the provisions of the Negotiable Instruments Act, the territorial jurisdiction lies with the Court at Ahmedabad as well as the Court at Chennai. It may be noted that this contention can be raised before the trial Court and if during the course of trial, the trial Court is of the view that it has no jurisdiction to try the offence in question, then the trial Court is entitled to pass appropriate order. Mention requires to be made here that no reply to the notice has been given by the present petitioner in spite of having received the same. The present petitioners could have very well replied to the notice and raised this contention as also other contentions if required before the lower Court and the lower Court could have dealt with all the contentions that may be raised, but the present petitioner has not chosen to do so. I am of the view that the trial Court was perfectly justified in verifying the complaint and issuing summons.

6. Thus, having regard to the facts and circumstances

and nature of the allegations levelled in the complaint, I do not think it would be appropriate for this Court to quash the complaint at this stage in exercise of its inherent jurisdiction under Section 482 of the Code. This Criminal Misc. Application fails and is hereby dismissed. Rule is discharged.

7. However, the learned Metropolitan Magistrate, Ahmedabad shall dispose of the proceedings in Criminal Complaint bearing no.4019 of 2006 without being influenced by any of the observations made in this order, as they are confined only for the purpose of disposal of this application.

(M.D.Shah,J.)

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